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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/220,184	12/22/98	DYBDAL	R D-350

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EXAMINER

LEE, B

ART UNIT

PAPER NUMBER

2817

DATE MAILED:

10/11/00

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**



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	4

DATE MAILED:

This is a communication from the examiner in charge of your application.

## COMMISSIONER OF PATENTS AND TRADEMARKS

☐ This application has been examined ☒ Responsive to communication filed on 11 July 2006 ☒ This action is made final.

A shortened statutory period for response to this action is set to expire 14(3) month(s), 28 days from the date of this letter.  
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

## Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- |  |   |
|--|---|
| 1. <input type="checkbox"/> Notice of References Cited by Examiner, PTO-892.       | 2. <input type="checkbox"/> Notice re Patent Drawing, PTO-948.                  |
| 3. <input type="checkbox"/> Notice of Art Cited by Applicant, PTO-1449             | 4. <input type="checkbox"/> Notice of Informal Patent Application, Form PTO-152 |
| 5. <input type="checkbox"/> Information on How to Effect Drawing Changes, PTO-1474 | 6. <input type="checkbox"/> _____   |

## Part II SUMMARY OF ACTION

1. ☒ Claims 5-14 are pending in the application.  
Of the above, claims \_\_\_\_\_ are withdrawn from consideration.
2. ☒ Claims 1-4 have been cancelled.
3. ☐ Claims \_\_\_\_\_ are allowed.
4. ☒ Claims 5-8; 9-14 are rejected.
5. ☐ Claims \_\_\_\_\_ are objected to.
6. ☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.
7. ☐ This application has been filed with informal drawings which are acceptable for examination purposes until such time as allowable subject matter is indicated.
8. ☐ Allowable subject matter having been indicated, formal drawings are required in response to this Office action.
9. ☐ The corrected or substitute drawings have been received on \_\_\_\_\_. These drawings are ☐ acceptable;  
☒ not acceptable (see explanation).
10. ☐ The ☐ proposed drawing correction and/or the ☐ proposed additional or substitute sheet(s) of drawings, filed on \_\_\_\_\_, has (have) been ☐ approved by the examiner. ☐ disapproved by the examiner (see explanation).
11. ☐ The proposed drawing correction, filed \_\_\_\_\_, has been ☐ approved. ☐ disapproved (see explanation). However, the Patent and Trademark Office no longer makes drawing changes. It is now applicant's responsibility to ensure that the drawings are corrected. Corrections MUST be effected in accordance with the instructions set forth on the attached letter "INFORMATION ON HOW TO EFFECT DRAWING CHANGES", PTO-1474.
12. ☐ Acknowledgment is made of the claim for priority under 35 U.S.C. 119. The certified copy has ☐ been received ☐ not been received  
☐ been filed in parent application, serial no. \_\_\_\_\_; filed on \_\_\_\_\_.
13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.
14. ☐ Other

SN 220184

Art Unit: 2817

The disclosure is objected to because of the following informalities: Page 12, line 14, note that "of Fig. 1" should correctly be --of Fig. 2--. Page 15, line 10, note that "as shown in Fig. 1" should be rephrased as --as shown in Fig. 2--; line 15, note that "as shown in Fig. 2" should be rephrased as --as shown in Fig. 1--. Appropriate correction is required.

The disclosure is objected to because of the following informalities: Note that the following reference labels appearing in the corresponding figures still need to be explicitly described therewith: Fig. 3A (10, 12, 14); fig. 3b (10, 12, 13, 14, 16, 25, 40, 42, 44); Fig. 4 (10a, 12, 13, 14a, 14b, 16b, 19, 40, 40a, 40b, 42, 42a, 42b, 44, 44a, 44b, 46b, 52b). Appropriate correction is required.

Claims 5-8; 9-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 5, 9, note that it is unclear if the Markush recitation for the "first and second shapes" is proper. For example, it would appear from the specification that the first and second shapes are mutually exclusive. In other words, if the first shape is "straight", then the second shape must be "bent". Clarification is needed.

The following claims have been found objectionable for reasons set forth below:

In claim 6, line 9, note that --wherein-- should precede "the first."

In claim 6, line 10 & claim 14, line 9, note that "respecting" should be rewritten as --with respect to-- should precede "selectable".

Art Unit: 2817

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over either Phillips, Jr, the USSR reference, Hosman, or Blass et al in view of Hettlage et al.

Note that each primary reference discloses the claimed waveguide switch except for the use of probes to communicate signals at each port.

Hettlage et al discloses a rotatable waveguide switch in which probes (4) are used at each port to communicate signals thereto.

Accordingly, it would have been obvious in view of the references, taken as a whole, to have used probes to communicate the signals in either one of the primary references. Such a modification would have been considered an obvious substitution of equivalent coupling means, suggested by a reference within the same field of endeavor (i.e. rotatable waveguide switch), thereby suggesting the obviousness of the combination.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over either Blass et al, the USSR reference, or Hosman in view of Hettlage et al.

Note the straight and 90 degrees bent waveguide in either one of the references. Moreover, note that use of such waveguides for propagating polarized signals would have been an obvious design consideration within the purview of one of ordinary skill in the art.

Art Unit: 2817

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Phillips, Jr. in view of Hettlage et al.

Note that in Phillips, Jr, the rotatable switch has been configured to propagate one of a circularly polarized signal and a linearly polarized signal to/from the common port associated therewith.

Applicant's arguments filed 11 July 2000 have been fully considered but they are not persuasive.

Applicant has argued that none of the prior art references disclose the waveguides having the first and second shapes as recited in amended claim 5.

Contrary to applicant's assertion, it should be noted that in view of the Markush recitation (as far as such can be understood), the prior art of record does indeed disclose the first and second waveguides having a shape which is "straight" and thus meets one of the Markush alternative, and as such meets this aspect of the claimed invention.

Claim 8 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2<sup>nd</sup> paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

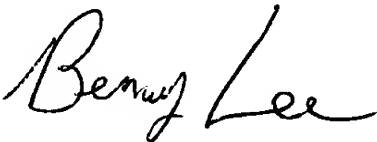
Claims 9-14 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2<sup>nd</sup> paragraph, set forth in this Office action.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Art Unit: 2817

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication should be directed to Benny Lee at telephone number (703) 308-4902.

  
BENNY T. LEE  
PRIMARY EXAMINER  
ART UNIT 2817

B. Lee